

# TENNESSEE

## REAL ESTATE APPRAISER REPORT

REAL ESTATE APPRAISER COMMISSION  
TENNESSEE DEPARTMENT OF COMMERCE & INSURANCE

### Chairman's Report

by Gary Standifer



I would like to thank Bill Blackburn for his service as Chairman during 1999-2000.

I am honored to serve as Chairman of the Tennessee Real Estate Appraiser Commission. The members and staff of this board are dedicated to maintaining a high standing of integrity and professionalism in our service to the appraisal industry and to protecting the citizens of Tennessee. Serving on the Tennessee Real Estate Appraiser Commission has been a humbling and rewarding experience for me. Attempting to stay consistent with the Commission's mission statement while being fair to licensees and trainees is a tough balance to maintain. The Commission is committed to helping all trainees and appraisers who desire to provide thorough and sound appraisal services to the public. We view almost all disciplinary cases as an educational opportunity in order to train and help each individual involved. Also, an ongoing attempt is being made to communicate with all educators across the State to insure adequate education is being provided to all appraisers and appraiser trainees.

At the October meeting of the Appraiser Qualifications Board, the Board adopted the policy that all USPAP Instructors must have an Appraisal Foundation approved USPAP instructor training course in order to be qualified to teach USPAP. The Tennessee Real Estate Appraiser Commission had sent a letter to the Appraiser Qualifications Board indicating that we felt it was the State's responsibility and this should not be imposed on the individual states.

When members of the board were questioned concerning this, the Appraiser Qualifications Board indicated that while many states were doing a good job in overseeing the educational instructor approval process, there are a number of states that needed mandated assistance in this area.

At the October AARO (Association of Appraiser Regulatory Officers) meeting, it was reported that "property flipping" has become an epidemic problem throughout the country. This term is used to describe the transfer of property where fraud is used to obtain inflated prices and loans. It is reported by some enforcement authorities that in many cases the appraiser is not aware of the scam. In some situations, the appraiser is involved knowingly. Either situation is alarming!

It is the goal of this Commission to improve communication and to have input from licensees and trainees. If anyone would like to make formal comments before the Commission, please contact our director, Ms. Sandy Moore, or your local commissioner. Time will be reserved for you at the next available meeting.

In closing, it is the Commission's desire to be available to all persons wanting to communicate with us. We encourage your comments and suggestions and look forward to hearing from you.

### Valuation 2000

by Don Turner

Valuation 2000 was held at the MGM Grand Hotel in Las Vegas in July 2000. Twenty-one professional and appraisal groups interacted to make this a very successful conference.

On July 9, The Appraisal Standards Board (ASB) conducted public meetings. On July 10, the Board voted to adopt and approve all parts of the exposure draft with minor edits. The following is an overview of the ASB's action at those meetings. A more detailed summary of the exposure draft is available on the Appraisal Foundation website at [www.appraisalfoundation.org](http://www.appraisalfoundation.org).

**Part A** - Several USPAP definitions were added, some were changed, and the definition of consulting was deleted. New USPAP definitions included advocacy, appraiser, appraiser's peers, appraisal consulting, cost, market value, and valuation services. Existing definitions for appraisal, appraisal practice, and assignment were modified.

**Part B** - Changes were adopted to the ETHICS RULE clarifying when USPAP applies and the appraiser's ethical responsibilities related to Supplemental Standards. Under the Conduct Section of the ETHICS RULE, the ASB made changes in additional language to specifically link an appraiser's representation of complying with supplemental standards to the ETHICS RULE.

**Part C** - The ASB voted to adopt the proposed changes to Standards 4 and 5, with edits to clarify that reporting requirements for appraisals within appraisal consulting assignments should be consistent with the appraisals' intended uses and to make USPAP's certification requirements for appraisal consulting reports consistent with those for other types of reports.

**Part D** - The ASB adopted the proposed language to resolve confusion on who must sign and what kind of

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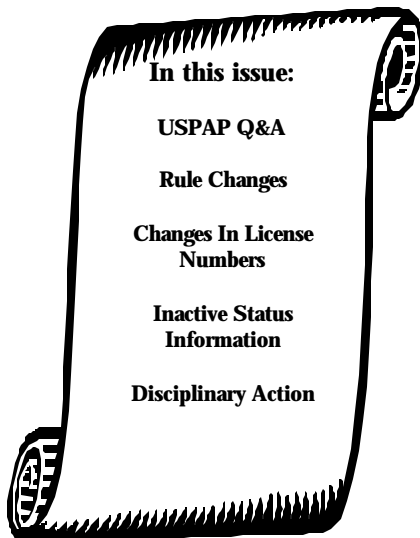
USPAP Q&A

Rule Changes

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assistance must be disclosed in the appraiser's certification.

**Part E** - After the 1999 revisions to Standard 3, the ASB received questions about how a reviewer could comply with the requirements for development and reporting of a review assignment that included the reviewer's own opinion of value. This Advisory Opinion was adopted, with edits.

**Part F** - The proposed revision to the SUPPLEMENTAL STANDARDS RULE was adopted with edits to clarify that the Rule applies to assignment development and reporting requirements issued (published) by public agencies and certain client groups. It does not apply to other contract issues such as the number of copies, kind of exhibits, or similar contract-related specifications set by a specific client.

**Part G** - The proposed revision, to resolve the "identity issue" in Standard 3, was adopted. The change allows a reviewer to state that the appraiser(s) name(s) have been withheld and still comply with the Standard.

**Part H** - This Statement was adopted, with edits for clarity, to address general USPAP applicability and compliance questions, and specific instances of non-compliance with USPAP requirements that are applicable in an assignment for use by a federally insured depository institution in a federally related transaction. This Statement explains and elaborates on what an appraiser's ethical and competency obligations are when accepting assignments involving the agencies' appraisal regulations and guidelines that, in some cases, supplement USPAP requirements.

**Part I** - This Advisory Opinion was approved, with edits, in response to numerous questions raised to the ASB concerning when appraisers and other professionals should meet USPAP requirements in providing valuation services.

**Part J** - This Advisory Opinion was approved, with edits to clarify and emphasize how an appraiser's obligations are affected when the purpose of an appraisal of real property is market value.

**Part K** - This Advisory Opinion was approved, with edits, to provide guidance on how an appraiser can determine which characteristics of real property are relevant in its appraisal.

The foregoing is only an overview on the actions taken by the ASB on the exposure draft material. Interested parties can obtain a copy of the exposure draft material, the edited versions of each Part, and the Summary of Actions on the Appraisal Foundation Website.

The effective date of all new and revised Standards and Statement or

Appraisal Standards adopted by the ASB between October and September 30 will be January 1 of the following year.

## Rule Changes Effective Soon

Proposed rules that have been adopted by the Commission will be effective shortly after the beginning of next year. Licensees will be notified of the exact date in a future mailing. The major changes are listed below.

### Applicants and Licensees

1. The length of an application's validity (time period in which one must take the exam) has been extended to twelve months after approval of the application rather than after receipt of the application.
2. Application fees for in-state and out-of-state licensure/certification have been increased from \$100 to \$125.
3. In-state and out-of-state Licensure/certification fees and renewal fees have been increased from \$200 to \$350 (the federal registry fee remains \$50 for the two-year period).
4. After the expiration of a license/certificate, a late renewal can be granted up to six months instead of the previous twelve months. After six months, a new application must be submitted.
5. An applicant for upgrade may claim a course for qualifying education that had previously been taken for continuing education if the applicant successfully completed the course examination.

### Trainees/Sponsors

6. A trainee registration application and renewal has been increased from \$50 to \$125.
7. Trainees must renew within thirty days of the registration expiration date. After that time, a \$100 penalty will be applicable. A late renewal is granted up to six months.
8. A registered trainee may conduct property inspections alone only after completing 500 hours of acceptable experience. A form certified by the sponsoring certified appraiser must be submitted to the Commission to

receive this authorization.

9. The provision requiring a trainee's signature has been removed; however, the appraiser shall identify all persons providing material assistance in the appraisal report in compliance with the Uniform Standards of Professional Appraisal Practice.

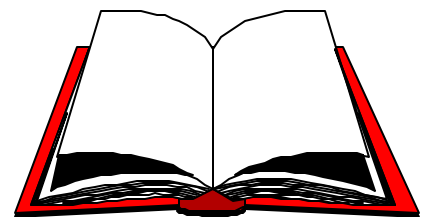
10. An appraisal report will be deemed to have been prepared under the direct supervision of an appraiser only when:

- a) the appraiser supervises and is involved in the preparation of the report and has input into and full knowledge of the report prior to its completion; and
- b) the appraiser has the authority to, and does, make any necessary and appropriate changes to the final report.

### Course Providers

11. Course providers must submit, on a quarterly basis, a list of scheduled courses for the quarter, including the time, date and location of such courses.
13. An application and renewal from a course provider for qualifying education courses shall increase from \$100 to \$200.
14. An application and renewal from a course provider for continuing education courses shall increase from \$50 to \$100.
15. Courses must be renewed within thirty days of the expiration date. A \$50 penalty shall be applied for late renewal. A late renewal may be granted up to three months. After that time, a new application must be filed. (The course may not be scheduled during any time that the course does not have an active status).
15. Temporary practice fees will be \$75 per single property or \$150 for multiple properties within the same assignment. No more than six practice permits will be issued within a calendar year.

Within the next year, new law books should be printed. These rules changes will be posted on the web site after they become effective.



# Changes In License Numbers

Trainees and active or inactive licensees with a five-digit number will have the registration/license/certificate number changed to a four-digit number. The change will occur in the near future. Each registrant or licensee in this situation will be issued a new registration or license/certificate with the new number. Immediately upon receipt of the document, please begin using the new four-digit number.

Temporary practice permits will continue to be issued the five-digit numbers.

We regret any confusion this may cause you or your clients. This is an administrative change which will better facilitate the licensure and renewal process. Remember, this will only affect those currently with a five-digit number.

Please be sure that you have notified this office of any mailing address change. If you do not receive a new registration/license/certificate by February 28, 2000, please contact this office.

## Inactive Status Clarification

An inactive status is available to licensees who are not currently appraising real property but who do not wish to lose their ability to reenter the profession without submitting a new application and retesting. Under the inactive status, a licensee must continue to renew, paying a \$100 renewal fee at the usual renewal date. Continuing education is not required with an inactive license/certificate.

To apply for inactive status, you must have an active status at the time of application. With an expired license/certificate, one would be required to pay active licensee renewal fees and submit appropriate continuing education to become active prior to applying for inactive status. If you plan to go on an inactive status, be certain to apply prior to your license/certificate expiring. Also, if one does not apply 30 days prior to the renewal date, a \$100 late penalty will be assessed.

To reactivate a license/certificate, you must pay remaining renewal fees, pay federal registry fees, submit proof of twenty-eight (28) hours of education within the current renewal period, and submit proof of having taken a USPAP course within the preceding five-year period.

Application forms are available [www.state.tn.us/commerce/treac](http://www.state.tn.us/commerce/treac) or by contacting the Commission office.



*This communication by the Appraisal Standards Board (ASB) does not establish new standards or interpret existing standards. The ASB USPAP Q&A is issued to state and territory appraisal regulators to inform all states and territories of the ASB responses to questions raised by regulators and individuals; to illustrate the applicability of the Uniformed Standards of Professional Appraisal Practice (USPAP) in specific situations; and to offer advice from the ASB for the resolution of appraisal issues and problems. The ASB USPAP Q&A do not constitute a legal opinion of the ASB.*

### Question:

I am a review appraiser for a national mortgage company. I recently received a residential appraisal reported on a commonly used form that has two signatures on the appraiser line (left hand side of the form). Both appraisers also signed the certification as "the appraiser". Does this violate Uniform Standards of Professional Appraisal Practice (USPAP)?

### Answer:

USPAP defines a signature (lines 479-480) as, "personalized evidence indicating authentication of the work performed by the appraiser and acceptance of the responsibility for content, analyses, and the conclusions in the report." Therefore, both appraisers would have complete responsibility for the appraisal in its entirety. It is important to note that a dual signature implies that both appraisers participated in every portion of the development of and reporting of that appraisal.

### Question:

I am a fee appraiser currently seeking to get on the approved list for a local mortgage company. In order to be

considered for approval, this lender requires appraisers to provide sample appraisals performed within the past year. Is there a way that I can accomplish this without violating Uniform Standards of Professional Practice (USPAP)?

### Answer:

In order to provide this information an appraiser must satisfy the Confidentiality Section of the Ethics Rule. This section states:

*An appraiser must protect the confidential nature of the appraiser-client relationship. An appraiser must act in good faith with regard to the interests of the client in the use of confidential information and in the communication of assignment results.*

*An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than: 1) the client and persons specifically authorized by the client; 2) state enforcement agencies and such third parties as may be authorized by due process of law; and 3) a duly authorized professional peer review committee. It is unethical for a member of a duly authorized professional peer review committee to disclose confidential information presented to the committee."*

The comment further explains that if all essential elements of confidential information are removed through redaction or the process of aggregation, client authorization is not required for the disclosure of the remaining information, as modified.

The appraiser in this case has three options:

1. Turn down the request to provide the information.
2. Secure a release from the client of each sample appraisal.
3. Provide sample reports, but redact all confidential information. Statement No. 5 in USPAP addresses the Confidentiality Section of USPAP. It stresses that all opinions and conclusions, developed specific to an assignment, are confidential. Assignment results are an appraiser's:
  - opinions or conclusions developed in an appraisal assignment, such as value;
  - opinions of adequacy, relevancy or reasonableness developed in an appraisal review assignment; or
  - opinions, conclusions or recommendations developed in a consulting assignment.

**Question:**

Why did the Appraisal Standards Board add Standards Rule 3-3 to 2000 USPAP?

**Answer:**

Standards Rule 3-3, which reads, "*An oral appraisal review report must address the substantive matters set forth in Standards Rule 3-2*", was added for two main reasons: First, it was the Board's opinion, following public input, that Standard 3 should mirror Standard 2 as closely as possible. Secondly, until now Standard 3 did not address the fact that appraisal review reports are frequently given orally, particularly in court testimony settings.

**Question:**

Standard 3-1(b)(v) in the 2000 USPAP states that it is a binding requirement for review appraisers to identify the appraiser(s) that completed the work under review. However, one of my clients that orders review appraisals from my firm always deletes any reference to the individual's name or company that completed the original assignment. They believe that removing the appraiser and company prevents personal bias from infiltrating the process. In light of this binding requirement, can I continue to take these assignments?

**Answer:**

Yes, you can continue to take these assignments. The requirement stated in Standards Rule 3-1(b)(v) was to ensure individual identity of an appraisal. That requirement helps ensure the work under review actually is work by an appraiser, and aids in tracking the source in such activities as enforcement and qualifications testing. This requirement is also useful in situations where a reviewer is reviewing two or more appraisals of the same property completed with a matching date of appraisal, such as in public agency work and many relocation related assignments.

The problem that arises in situations where the appraiser's identity is withheld did not surface during the public exposure process, but came to light after publication of the 2000 Edition of USPAP. A revision to Standards Rule 3-1(b)(v) and the addition of a Comment following Standards Rule 3-2(b) will be needed to resolve the problem. The proposed revision was submitted for public comment in May 2000, and will ultimately appear in the 2001 Edition.

To deal with the requirements in the 2000 Edition of USPAP, when the appraiser's identity is not available, a reviewer can signify compliance with both Standards Rule 3-1(b)(v) and the related reporting requirement in Stan-

dards Rule 3-2(b) by stating the factual circumstances in the appraisal review report (i.e., the appraiser's identity is not available to the reviewer). This proposed solution is consistent with the requirement, stated in Standards Rules 2-2(a), (b), and (c)(ix), as to how an appraiser is expected to address the requirements in Standards Rule 1-5 when data or information is not available.

**Question:**

I am appraising a single tenant retail property that is being sold with financing by my client, which is a bank. The property was developed by XYZ Company and just completed last month for a total development cost (land and improvements) of \$1,500,000. The developer is part of a large retail chain that will occupy the building at an above-market lease rate. The property is being sold to an investor on a sale-leaseback basis for over \$2,000,000. This sale price is supported by several other sales that also have above-market leases that were also created by the same type of sale-leaseback arrangements.

When I questioned the seller/tenant's representative, they said that both parties recognized the lease rate was above-market and that the price was well above replacement cost. They noted that the lease supported the sale price and that the credit strength of the XYZ Company warranted using the above-market lease rate for the valuation. Should I allocate the portion of above-market rent to the real estate or treat it as an intangible. My client insists that I attribute the entire rent to real property value. What does USPAP require in this situation?

**Answer:**

The subject of this appraisal is real property, not intangibles, as it is the leased fee estate and thus involves SR 1-2(e)(ii). The characteristics of the lease must be identified in accordance with SR 1-2(e)(iv).

identify the characteristics of the property that are relevant to the purpose and intended use of the appraisal, including:

**(i) its location and physical, legal, and economic attributes;**  
**(ii) the real property interest to be valued;**

**(iii) any personal property, trade fixtures, or intangible items that are not real property but are included in the appraisal;**

**(iv) any known easements, restrictions, encumbrances, leases, reservations, covenants, contracts, declarations, special assessments, ordinances, or other items of a similar nature; and**

**(v) whether the subject property is a fractional interest, physical segment, or partial holding.**

Further, the valuation in this assignment must address the effect of the lease on value in accordance with Standards Rule 1-4(d) that states the following;

When developing an opinion of the value of a leased fee estate or a leasehold estate, an appraiser must analyze the effect on value, if any, of the terms and conditions the lease(s).

**In this situation you are required to analyze the effect on value of the above-market lease. The analysis should identify the contributory value of the above-market income component and whether it presents different market risk characteristics. The result of the analyses must be reported in accordance with SR 2-2, for example 2-2(b)(ix) which states the following;**

summarize the information analyzed, the appraisal procedures followed, and the reasoning that supports the analyses, opinions, and conclusions;

**Question:**

A client asks an appraiser to prepare an appraisal of a property with an effective date of value five years ago (a retrospective appraisal). In performing this assignment, do I have to conform to the current version of the Uniform Standards of Professional Appraisal Practice (USPAP) or the Standards in effect five years ago?

**Answer:**

First, the appraiser must communicate with the client to ensure an understanding of the intended use of the assignment results. If the client's intended use is to ascertain what the value would have been if competently prepared under the standards that existed five years ago, then the version in effect at that time should be used.

If the client's intended use is to ascertain what the value was five years ago if competently prepared under the current standards, then the current version should be used.

To avoid confusion, the appraiser should clearly disclose the effective date of the appraisal and the date of the report, and clearly state the version of USPAP that was used given the intended use of the assignment results.

Statement No. 3 of USPAP provides an in-depth discussion of this issue and should be consulted for further clarification.

**Question:**

I was recently engaged to conduct a market value appraisal of a one-to-four unit residential property. The intended use of this appraisal is for mortgage lending purposes associated with the

property's purchase. I requested a copy of the purchase contract from the client, but they refused to provide it although they acknowledged that a contract for purchase of the property in fee simple exists. They did, however, provide a sale price verbally. Can I continue this assignment, without the purchase contract, and comply with USPAP?

**Answer:**

Yes, you can complete the assignment in compliance with USPAP. However, you will need to ensure compliance with Standards Rule 1-5(a) in developing the appraisal, and Standards Rule 2-2(a)(ix), (b)(ix), or (c)(ix), as applicable to the type of appraisal report involved, in reporting the assignment results. Note that all of these Standards Rules are binding requirements.

Standards Rule 1-5(a) states:

In developing a real property appraisal, an appraiser must:

(a) analyze any current Agreement of Sale, ..., if such information is available to the appraiser in the normal course of business;

The Comment to Standards Rule 1-5 states:

See the Comments to Standards Rules 2-2(a)(ix), 2-2(b)(ix), and 2-2(c)(ix) for corresponding reporting requirements.

For example, the corresponding reporting requirements in Standards Rule 2-2(a)(ix), in the Comment, are, in part:

... If such information was unobtainable, a statement on the efforts undertaken by the appraiser to obtain the information is required.

Completing these binding requirements ensures that the existence and unavailability of the purchase contract is appropriately disclosed, and any reader of the appraiser's report will not be misled as to how this situation was handled in the analysis and report.

**Question:**

I completed an appraisal assignment approximately six weeks ago for a property owner. The owner/client informed me that the intended use was simply for him to learn the market value of his home. At the time of the inspection I asked the owner if the subject was currently under contract for sale. The client stated that no such contract currently existed.

Therefore in my report I indicated that the subject property is not currently under contract for sale nor has it been sold in the past twelve months. Today I received a phone call from my client informing me that this statement is incorrect as there had been a contract written on the property one week prior to the effective date (my inspection date) of the report. The client acknowledged that this information was not available to me during the development of the appraisal.

However he still wants me to include the sale contract in my appraisal report. How do I handle this situation without violating USPAP?

**Answer:**

Simply including the sale contract in the appraisal report is not sufficient to comply with USPAP.

The Comment to Standards Rule 2-2(a)(ix) and (b)(ix) requires a summary of the analyzed information as required in Standards Rule 1-5. The Comment to Standards Rule 2-2 (c)(ix) requires the disclosure of the analysis results as required in Standards Rule 1-5. Therefore, responding to the client's request to include the sale contract in the appraisal requires an analysis of the sale contract.

The appraiser could provide the results of the sale contract analysis in one of two ways; an "Update of an Appraisal" or in a new appraisal.

Statement No. 7 addresses updated appraisal assignments under, Clarification of Nomenclature:

"The term 'Update of an Appraisal' is defined as an extension of an original Complete or Limited Appraisal and report relied on by a client for a prior business decision. The Update of an Appraisal changes the effective date of the value opinion."

An update is an extension of the original report. It addresses any significant or pertinent changes that have occurred since the original appraisal assignment was completed. Since the contract information was not available during the development of the original report, it would be considered to be new information. In completing the Update, the appraiser must analyze the contract to identify the effect, if any, that contract now has on the subject. The appraiser must clearly state that this Update Report is an extension of the original appraisal and can only be relied upon by a reader familiar with the original report. For more information on updating an appraisal, consult Advisory Opinion No. 3, published with the 2000 Uniform Standards of Professional Appraisal Practice (USPAP).

The appraiser's second option is to reappraise the property from a retrospective standpoint and reflect in the appraisal report the result of analyzing the sale contract that is now available.

**Question:**

A new bank client recently sent me a letter acknowledging that my firm is approved to conduct appraisal assignments for their company. It goes on to state that we are now "preferred providers" and expresses the bank's desire to embark on a mutually beneficial long-term relationship. The letter ends with a solicitation for my firm's banking business as part of this mutually beneficial relationship. I would like to make them happy because they could provide my firm

a great deal of business. If I bring my banking business to this company, while I'm engaged as an appraiser, would I be violating USPAP?

**Answer:**

The answer to this question depends on whether the bank's approval of your firm as a "preferred provider" is conditional on your moving your banking business to that bank. The Management section of the ETHICS RULE in USPAP reads:

The payment of undisclosed fees, commissions, or things of value in connection with the procurement of appraisal, appraisal review, or consulting assignments is unethical.

Comment: Disclosure of fees, commissions or things of value connected to the procurement of an assignment must appear in the certification of a written report and in any transmitted letter in which conclusions are stated. In groups or organizations engaged in appraisal practice, intra-company payments to employees for business development are not considered to be unethical.

Competency, rather than financial incentives, should be the primary basis for awarding an assignment.

If the lender has stated that your firm can only have their appraisal business if you bank with them, this relationship must be disclosed as described in the ETHICS RULE.

However, if the client is merely soliciting your business as it would any other potential customer, and you subsequently moved your banking business to that bank, there is no requirement in USPAP to disclose your banking relationships.

**Question:**

I completed an appraisal and delivered the report to my client, a local bank, last week. The bank's in-house reviewer has asked that I send her an amendment letter that will include revisions to information in the report I delivered and will add some information. How do I comply with USPAP when making revisions to an appraisal report?

**Answer:**

USPAP does not specifically address the requirements for such an amendment. However, as in any communication of assignment results, an appraiser must be mindful of the obligation to not mislead and to not knowingly permit an employee or other person to communicate a misleading or fraudulent report. Therefore, accomplishing the amendment requires careful attention to these obligations.



Given the specific circumstances you describe, one solution would be to obtain all the copies of your appraisal report from the client, make the necessary revisions, and reissue the corrected report.

Another solution would be to send the corrected or revised pages to the client with a cover letter carefully instructing them to substitute these pages in every copy. This option should be used with discretion, however, because asking a client to accomplish such a task does not relieve you, as the appraiser, of responsibility for compliance with USPAP.

In either case, a copy of the pages that were revised, together with any letter sent to the client regarding those revisions, should be retained in your assignment work-file. This avoids having a third-party, such as an enforcement-body, conclude that there was any effort to conceal the fact that an earlier version of the appraisal report had been communicated to the client.

In preparing any form of an amendment, an appraiser must also keep in mind the requirements in the Conduct section of the Ethics Rule, which states, in part "an appraiser must not communicate assignment results in a misleading or fraudulent manner" and must not accommodate the interests of the client. As such, in any amendment to, or revision of, a prior appraisal report, an appraiser must provide any new or corrected information in a clear, objective and impartial manner.

**Question:**

I have been asked by a local bank to appraise just the underlying land of an existing shopping center. Can I perform such an assignment under USPAP? If so, would this be a limited appraisal?

**Answer:**

Yes, you can perform this type of assignment in compliance with USPAP.

The subject of a real property appraisal is not limited to all of the physical parts of an identified parcel or tract of real estate. The subject of a real property appraisal can be a full or fractional ownership interest in all or any part of an improved or unimproved parcel or tract of identified real estate. For example, the subject of a real property appraisal could be a half-interest in the land, part of the land, the improvements on or to the land, or some other configuration within a parcel or tract of identified real estate.

Standards Rule 1-2(e) of USPAP states, in part, the appraiser must "identify the characteristics of the property that are relevant to the purpose and intended use of the

appraisal, including...

(i) its location and physical, legal, and economic attributes;...

(v) whether the subject property is a fractional interest, physical segment, or partial holding."

In addition, the Comment to this Rule also states, in part: "An appraiser is not required to value the whole when the subject of the appraisal is a fractional interest, a physical segment, or a partial holding." It is important to note that these are binding requirements.

Appraising the land component of an improved property does not cause the appraisal to be a limited appraisal.

**Question:**

My client, a government agency, has obtained two appraisals of the same real property, and has asked me to review both and reconcile them to a single value. Can I perform this assignment under USPAP?

**Answer:**

Yes, you can perform this assignment under USPAP.

The situation you describe constitutes a real property appraisal review assignment. Standard 3 of USPAP addresses the development and reporting of a real property appraisal review assignment. In this case, you would carefully apply the specific appraisal review requirements of SR 3-1 and SR 3-2 to both appraisals being reviewed, and provide your own opinion of value in accordance with SR 3-1(c) and SR 3-2 (d).

In this type of situation, it would be appropriate to include the result of your review of both appraisals and your own appraisal opinion within the same appraisal review report, since these would all have to be addressed in the same report to be understood properly and thus not be misleading. A single signed certification would be

**Question:**

I have an assignment to prepare a complete appraisal of a proposed subdivision with 20 single-family homes and communicate it in a self-contained appraisal report. The client has asked me to include, within the self-contained appraisal report, an appraisal of each of the homes using the Uniform Residential Appraisal Report (URAR) form to document those appraisals. The URAR form is considered by many to be a summary appraisal report. Can I complete the assignment in this manner and still call the overall report self-contained?

**Answer:**

Yes you can, if you follow the applicable requirements of USPAP.

Standards Rule (SR) 2-2 requires that:

"Each written real property appraisal report must be prepared under one of the following three options and prominently state which option is used: Self-Contained Appraisal Report, Summary Appraisal Report, or Restricted Use Appraisal Report."

The Comment to SR 2-2 further states that:

"The essential difference among these three options is in the content and level of information provided" and that "The report content and level of information requirements set forth in this Standard are minimums for each type of report. An appraiser must supplement a report form, when necessary, to ensure that any intended user of the appraisal is not misled and that the report complies with the applicable content requirements set forth in this Standards Rule."

Guidance is found in Advisory Opinion (AO) 11, which advises:

"The Self-Contained Appraisal Report should contain all information significant to the solution of the appraisal problem. Describe is the distinguishing term related to the Self-Contained Appraisal Report. Standards Rules 2-2 and 8-2(a)(vii) require only a description of sufficient information to disclose to the client and any intended users of the appraisal the scope of work used to develop the appraisal. The reader of the Self-Contained Appraisal Report should expect to find all significant data reported in comprehensive detail."

AO 11 also includes examples of the application of the terms "describe", "summarize" and "state" in the context of a real property appraisal report, which should also be reviewed.

When providing a self-contained appraisal report under the circumstances you describe, an appraiser is obligated to ensure the URAR forms are appropriately supplemented to meet the test of a self-contained report. For example, descriptions, adjustments and analyses should be expanded to the extent necessary to meet the test of the term "describe".

**Question:**

My client's attorney has told me to invoke the JURISDICTIONAL EXCEP-

TION RULE in USPAP to avoid mentioning in my appraisal report an underground storage tank (UST) that I know exists in the property. The attorney did not provide any reference or citation of law or public policy justifying this action. Can I follow the instruction from this attorney, who is representing my client?

**Answer:**

Not under the conditions described.

The JURISDICTIONAL EXCEPTION RULE is the "savings clause" in USPAP, available when a part or parts of USPAP are contrary to law or public policy. The JURISDICTIONAL EXCEPTION RULE states,

If any part of these standards is contrary to law or public policy of any jurisdiction, only that part shall be void and of no force or effect in that jurisdiction.

The first sentence of the Comment to the Rule states,

The purpose of the JURISDICTIONAL EXCEPTION RULE is strictly limited to providing a savings clause intended to preserve the balance of USPAP if one or more of its parts are determined to be contrary to law or public policy of a jurisdiction.

The second paragraph in the Comment also provides explicit descriptions of "law", "public policy", and "jurisdiction" that appraisers can use to determine whether a client's instruction to invoke jurisdictional exception is acceptable. It is important to note that the parameters described in the Comment apply whether the assignment is an appraisal, appraisal review, or an appraisal consulting assignment, for the purpose of any type of value, not just market value, and for any intended use.

An attorney's instruction, without specific citation of law or public policy, is not the equivalent of law or public policy. Attorneys may offer legal opinions, but legislative bodies and courts make law, and public bodies, such as regulators, make public policy. While an attorney is an expert in the practice of law, it is the court that decides if the facts in a matter support an attorney's representation of how established law applies to a specific set of facts.

Absent the citation of law or public policy, which should be identified in the report together with the part or parts of USPAP disregarded in the assignment, the attorney's instruction is not acceptable as a basis to disregard a part or parts of USPAP applicable in an assignment.

**Question:**

My client, a bank in another city, has asked me to email them a copy of my appraisal report when I have completed the appraisal. Can I do this and comply with USPAP?

**Answer:**

Yes you can transmit an appraisal report by any electronic means, as long as you comply with the requirements of Statement on Appraisal Standards No. 8 (SMT-8), which addresses the Electronic Transmission of Reports. These requirements are summarized at the end of SMT-8, as follows (from the 2000 edition of USPAP [\*]):

**CONCLUSIONS:**

An electronically transmitted report is a written report and must meet USPAP reporting requirements.

Appraisers must take reasonable steps to protect the data integrity of transmitted reports.

Any software program used to transfer a report electronically must provide, at a minimum, a digital signature security feature for all appraisers signing a report. (\*)

Electronically affixing a signature to a report carries the same level of authenticity and responsibility as an ink signature on a paper copy report. (\*)

The Record Keeping section of the ETHICS RULE applies to all reports and permits storage on electronic, magnetic, or other media. A true electronic and/or paper copy of the transmission must be retained by the appraiser.

(\*) Note that the 2001 edition of USPAP will contain language in Standards Rules 2-3, 3-2(f), 5-3, 8-3 and 10-3 to clarify that it is the appraiser's certification that the appraiser must sign, which certification is required within each appraisal, appraisal review, or appraisal consulting report.

Also remember that the entire report must be transmitted, including all addenda or attachments. A complete reading of SMT-8 is recommended.

**Question:**

I am a state-certified appraiser who serves on the appraisal review panel for our state's Appraisal Licensure & Certification Board. The State Administrator has asked me to review an appraisal report. The appraiser that prepared the report is the subject of a complaint that was recently filed. The purpose of the review is to develop and state my opinion as to the quality of the work in comparison to the applicable requirements in USPAP, state law, and regulations. My state does not exempt reviewers who are state licensed or certified appraisers from compliance with USPAP when performing such reviews. Do I have to follow Standard 3 in this assignment?

**Answer:**

Yes, under the circumstances you describe, you do have to follow all the applicable requirements of Standard 3. In

this specific situation, just because the intended user and intended use are related to enforcement does not mean such a review assignment would be treated or accomplished any differently.

However, some states have laws or regulations that exempt appraisal review work of this type from USPAP. An appraiser performing such an assignment should discuss the assignment with the client and carefully review the applicable state law and regulation to ensure no misunderstanding about whether compliance with USPAP is, indeed, required or whether a jurisdictional exception results in a part or parts of USPAP, such as STANDARD 3, being not applicable.

Given that compliance with USPAP is required in such an assignment, you should also note and be sure to follow the USPAP requirements pertaining to confidentiality. The Confidentiality section of the ETHICS RULE states:

"An appraiser must not disclose confidential information or assignment results prepared for a client to anyone other than: 1) the client and persons specifically authorized by the client; 2) state enforcement agencies and such third parties as may be authorized by due process of law; and 3) a duly authorized professional peer review committee. It is unethical for a member of a duly authorized professional peer review committee to disclose confidential information presented to the committee."

## Disciplinary Action

**May 2000**

Christopher Weatherly, CR-796  
Lexington, TN  
Violations: T.C.A. 62-39-302, 62-39-326  
and Rule 1255-1-.03  
Consent Order: Pay \$3000 civil penalty  
and Cease and Desist

**September 2000**

Gary L. McKinney, CR-663  
Kingsport, TN 37664  
Violation: T.C.A. 62-39-329  
Consent Order: Pay \$250 civil penalty  
and take a 30-hour course in Procedures.

**Comments or Questions?**

**Contact Our Office:**

**Phone: (615) 741-1831**

**Fax: (615) 253-1692**

**Tennessee Real Estate Appraiser Commission**  
**500 James Robertson Parkway**  
**Suite 620**  
**Nashville, TN 37243-1166**

Tennessee Department of Commerce and Insurance  
Tennessee Real Estate Appraiser Report  
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Tennessee Real Estate  
Appraiser Commission

**Members of the Commission:**

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**Brentwood**

**Robert Sain, Vice Chairman**  
**Bolivar**

**William J. Blackburn, Appraiser Member**  
**Morristown**

**Paul Sampson, Appraiser Member**  
**Johnson City**

**Donald Turner, Appraiser Member**  
**Nashville**

**Polly A. Dyer, Appraiser Member**  
**Bon Aqua**

**Dr. Reginald Peyton, Public Member**  
**Memphis**

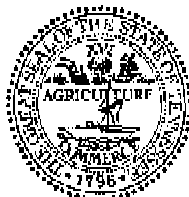
**Daryl Nelkin, Public Member**  
**Sevierville**

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Administrative Assistant RB1  
**Chelsey Luke**  
Licensing Technician

**Commission Meeting  
Dates for 2001**

January 22	-	Room	140
February 26	-	Room	140
March 19	-	Room	140
April 16	-	Room	140
May 21	-	Room	140
June 18	-	Room	160
July 16	-	Room	140
August 20	-	Room	140
September 17	-	Room	140
October 15	-	Room	160
November 12	-	Room	160
December 10	-	Room	160



Unless otherwise noted, the Commission meetings are scheduled to be held at 500 James Robertson Parkway, Nashville, Tennessee. Meetings start at 9:00 a.m. The public is invited to attend. Please call the Commission office to verify that the meeting will be held on the date scheduled.

"The Tennessee Department of Commerce and Insurance is committed to principles of equal opportunity, equal access, and affirmative action." Contact the EEO Coordinator or ADA Coordinator (615) 741-0481, for TDD (615) 741-7190.

TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE  
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